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US PTO  
041904

**PATENT APPLICATION TRANSMITTAL LETTER &  
FORM FOR EXPRESS MAIL CERTIFICATION**

**EXPRESS MAIL LABEL NUMBER:** ER 819217995 US  
**DATE OF DEPOSIT:** APRIL 19, 2004

17513 U.S. PTO  
10/827548  
041904

The Honorable Commissioner of Patents  
Alexandria, Virginia 22313-1450

Dear Commissioner:

I hereby certify that the attached U.S. Plant Patent Application including the items listed below are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Patent Application, Commissioner of Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Transmitted herewith for filing under 35 U.S.C. §111 and 37 CFR §1.53 is the plant patent application of:

**INVENTOR:** USHIO SAKAZAKI  
**TITLE:** PHLOX PLANT NAMED 'USPHL02'

In connection with this application, the following are enclosed:

- 13 Pages of written description, claims and abstract.
- 1 Sheet of photographs, in color, in duplicate, as required by Rule 165.
- 1 Executed Declaration of the Inventor including Authorization of Agent.
- 1 Assignment of the Invention to Plant 21 LLC of San Marco, California.
- 1 Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i).
- 1 **Check in the amount of \$570.00 is enclosed for the required U.S. Plant Patent Filing Fee (\$530.00) and Assignment Recordation Fee (\$40.00).**

Respectfully submitted,

Catherine Anne Whealy, Registration No. 39,419  
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<b>NONPUBLICATION REQUEST UNDER 35 U.S.C. 122(b)(2)(B)(i)</b>	First Named Inventor	<b>SAKAZAKI, Ushio</b>
	Title	<b>Phlox Plant Named 'USPHL02'</b>

I hereby certify that the invention disclosed in the attached **application has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing.

I hereby request that the attached application not be published under 35 U.S.C. 122(b).

Signed: Ushio Saka Date: 24 NOV. 2003  
 Name: **USHIO SAKAZAKI, Applicant**

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent & Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**